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TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): SCENESETTER FOR
45TH EXECUTIVE COUNCIL SESSION, MAY 16-19

Classified By: Ambassador Eric M. Javits, Permanent Representative to the OPCW. Reasons: 1.4 (B, D)

This is CWC-39-06.

SUMMARY

¶1. (U) The focus of the May Executive Council session will be on extension requests of destruction deadlines, and the U.S. request clearly will get the lion's share of attention. Now that delegations and capitals have had a chance to analyze the U.S. presentation from April 20, there probably will be more extensive questions about the state of the U.S. destruction program. In general, there remains a vague disappointment with the U.S. projection that it will not be able to complete destruction by 2012, and that will likely remain the mood at and immediately after the May EC. While not an optimal atmosphere, as long as the dissatisfaction remains amorphous, there is an opportunity for the U.S. to work to shape the views of delegates by emphasizing full transparency and reiterating the clear U.S. commitment to destruction of all CW stocks.

¶2. (U) The extension request will make it very difficult at EC-45 for the U.S. to make a hard sell on policy objectives in other areas. Most notably, it will be awkward to press for full implementation of Article VII obligations as many delegates have made the mental link between destruction and national implementation obligations. On Article VII, del recommends highlighting U.S. contributions and support for EC actions to finalize the work on establishing National Authorities, shying away from any discussion of negative measures. With the exception of Article VII, most of the items on the May EC agenda are routine or administrative. The only other issue that will likely generate extended discussion is the chairmanship of the working group to prepare for the second RevCon, and most of the work to try to reach agreement on that issue will probably be done in informal discussions. End Summary.

U.S. EXTENSION REQUEST

13. (U) Following the extensive briefing provided by Deputy Assistant Secretary of the Army Ormond on April 20, there were only a few questions from delegations. That was to be expected, in light of the detailed nature of the briefing. However, there continues to be an absence of operational questions. The expectation is (and the planning presumption definitely should be) that with experts from capitals arriving for the May EC, there may now be a flurry of questions about the U.S. program.

14. (U) The lack of questions, however, may simply validate the assumption that the concern of delegations is not about operational details, but larger political and legal issues. If that is indeed the case, the U.S. certainly should anticipate that providing clear, extensive questions about the U.S. destruction program will be necessary, but not sufficient, in getting support from other delegations.

15. (C) Of the few questions the del has received, Washington should be aware of, and prepared to address, two prevalent themes. The first is that of an amendment. Although it is undeniably premature to discuss such measures, feedback on the ground to date has been that the U.S. answer to the amendment question has not been well received and has been viewed as simplistic, dismissive and seemingly evasive. Del strongly recommends that we should henceforth avoid categorically dismissing any option (regardless of seeming impracticality or significant disadvantages).

16. (C) The second (and perhaps more sinister) theme is the question of the legality of our extension request. Several delegations (most in anticipation of the Russian line of questioning) have raised concerns about the legality of an
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extension request that refers to a plan going beyond 2012. Although del has pointed out that the request itself is to April 29, 2012, delegations have also commented on the necessity of a plan depicting operations complete at 2012. Again, it has been highlighted that the terms in the Convention call for a plan "for the period of the proposed extension," but del recommends being prepared to discuss this in detail at the May EC, particularly with Russia and Iran.

17. (C) The difficulty in addressing the larger political and legal issues is that they have yet to take concrete form. There is general concern with and discussion of the problem with having plans for facilities that go beyond 2012, but no call for an amendment of the CWC, nor any other proposed solution. At present, there certainly is no easy solution on which States Parties can agree. That is an advantage for the U.S. in the push for dialogue and transparency that will be important, particularly at EC-45. What some in Washington have called "use of the Socratic method" should assist delegations in coming to the conclusion that there is no easy solution.

OTHER EXTENSION REQUESTS

18. (U) Russia: On April 26, Russia submitted its "amended detailed plan" to the DG and EC Chair. A copy of the original Russian text was provided to Washington. The TS anticipates having a translated version available for distribution by May 5. Despite the length of the document, del does not anticipate the provision of any (substantive) new information. More noteworthy, however, is the hope expressed privately by the Russian del that the U.S. would follow suit and submit a detailed plan that conveniently concludes by April 29, 2012.

19. (U) India: The content of the extension request is consistent with discussions held with the TS. India has noted the difficulty of destroying older, polymerized agent, and munitions (versus bulk agent). The request cites the long-standing air monitoring issue as one of the reasons for

delay, inferring (unintentionally or not) that the TS is somehow partly responsible. Del has not received any feedback from other SPs, but will inform Washington of any discussions on the subject prior to the EC, and does not anticipate any real objections to the request.

¶10. (C) Republic of Korea: The Korean extension request was recommended for approval by EC-44. Del does not anticipate any further discussion on this issue.

¶11. (U) Japan/China: While Japan/China have submitted an extension request regarding abandoned CW in China, the issue will not be on the EC-45 agenda. The two delegations anticipate that the document will be circulated in time for the May 15 destruction informals, and will assist in discussions at that meeting, although it is unclear at this time whether they intend to make formal presentations. The document is, not surprisingly, light on detail, and del anticipates possible revisions prior to official distribution.

¶12. (U) Libya: At this point, the Libyan extension requests have not generated substantial discussion, beyond general puzzlement about why destruction cannot be completed before ¶2010. However, to preempt questions from becoming objections, del recommends that Washington encourage the Libyans to provide a clear statement at the May 15 destruction informals, and to request the presence of experts from Tripoli to answer any questions that may arise. Del will keep Washington informed of the discussion.

ARTICLE VII

¶13. (U) While delegations have still not come to any immediate conclusions about the U.S. extension request, they wasted no time in making the immediate linkage to national implementation. Certainly at this EC, del strongly recommends that the U.S. should emphasize what it has done to support Article VII efforts (e.g., numbers of technical assistance visits) and what measures the EC will take before EC-46 to assist the small handful of SPs that still have not established a National Authority, rather than engage in any discussion that may even hint at remedial or other measures. The U.S. does not need at this juncture to be seen prodding other SPs.

¶14. (U) This period of enforced silence should abate over time. And it should not be fatal to U.S. goals on Article VII. Maarten Lak (Netherlands) has proven to be an energetic facilitator and should continue to press the TS and laggard States Parties in directions fully in sync with U.S. goals. And DG Pfirter has told Amb. Javits that more money will be allocated for TAVs by the TS.

AGENDA ITEMS

¶15. (U) The following items are listed using the internal numbering system in the annotated provisional agenda.

(U) Item 3 - DG's opening statement: Del will provide a copy as soon as it becomes available.

(U) Item 4 - General Debate: Del has E-mailed a draft statement by Ambassador Javits to Washington.

(U) Item 5 - Implementation of the Convention.

(U) 5.1 - Verification plan for Borkhedi. India has yet to distribute the accompanying facility agreement for Borkhedi; del is working with the TS and India to seek clarification, and to encourage greater transparency.

(U) 5.2 - Verification plan for Newport. The Russian

delegation has indicated that it is now satisfied with the Newport documents. Unless objections are raised by a previously silent delegation, the prospects of adoption by this EC look good.

(U) 5.3 - Verification plan for Kambarka. The plan has been distributed; del is awaiting specific feedback following Washington's review.

(U) 5.4 - Verification plan for Qaf-Molla in Albania. Del is aware of no objections or questions that have been raised regarding this document.

(U) 5.5 - TS note on corrections to the conversion plan for the Open Joint Stock Company "Khimprom" in Volgograd. The EC is asked to note the document (EC-45/S/1, dated 24 April 2006).

(U) 5.6 - TS Note on progress in converting former CW production facilities. The EC is asked to note the document (EC-45/R/S/1, dated 21 April 2006).

(U) 5.7 - U.S. extension request. Discussed above.

(U) 5.8 - Libyan 100% extension request. Discussed above.

(U) 5.9 - Indian 100% extension request. Discussed above.

(U) 5.10 - Libyan request for extension of intermediate deadlines. Discussed above.

(U) 5.11 - Article VII progress report. Discussed above.

(U) 5.12 - Facility Agreement for Newport. Discussed above.

(U) 5.13 - Facility Agreement for Kambarka. Although the verification plan has been distributed, the facility agreement has not. As both documents went to PMO at the same time, this seems to be an administrative delay, rather than
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an indication of continuing unresolved issues on the document.

(U) 5.14: Facility agreement at Qaf-Molla in Albania. Discussed above.

(U) 5.15 - DG's note on progress on Schedule 2 facility agreements. The EC is asked to note the document (EC-45/DG.5, dated 25 April 2006). Italy has raised this issue in the WEOG expressing various vague concerns, but generally seeking to have the TS push on completion of these facility agreements. Germany replied that it did not see the value of pushing ahead on this matter.

(U) 5.16 - DG's report on the status of implementation of Article X. The document has not yet been released.

(U) 5.17 - DG's report on the status of implementation of Article XI. The document has not yet been released.

(U) Item 6/6.1 - Lists of new validated data. There is no indication that Iran and India are yet ready to lift their objections regarding what should be a straightforward exercise. The past requests for deferral were based on the need for capitals to have more time to examine the lists. Del will continue to press both delegations to lift their vetoes, and will also call on the TS to do the same.

(U) Item 7/7.1 - OPCW office in Africa. There is good reason for optimism that this issue will now die a silent, well-deserved death. Facilitator Malik Azhar Ellahi (Pakistan) has been selected to fill a position in the External Relations Division of the TS before the May EC. There is currently no indication of anyone willing to take over the facilitation. Peter Makwarela (South Africa) who was the driving force behind this exercise will be departing in June.

(U) Item 8/8.1 - Biomedical sampling capability. While del will check with the TS to get further details, it appears this particular item is more procedure than substance. At EC-44, agreement was reached on the sections of the SAB report dealing with this issue. The remainder of the report was held up by India and Iran. The item for the May EC is a request for the Council to note the DG's note regarding the SAB report. The TS has emphasized previously that practical work on this issue has been continuing even without EC blessing of the SAB language or the DG's note.

(SBU) Item 9/9.1/9.2 - Working Group for preparations for second RevCon. This is an issue which will certainly drive a lot of side-bar discussions. There remains substantial support for UK Ambassador Parker to chair the working group. And there is virtual unanimity on the structure of the group: a chairman with vice-chairs (or friends of the chair) drawn from every other regional group. However, while the Iranian delegation has given ground on this issue, they have yet to capitulate. Amb. Javits has played an active part in seeking to bring the Iranians around, and EC Chairman Dastis has also joined this effort.

(U) Item 10 - Report of the Office of Internal Oversight for 2005. Only one item concerning the U.S. has arisen in discussions. Some delegations have noted the OIO criticism of the handling of the VIS project, and have asked whether the TS was able to get back the funds which had been given to the U.S. contractor.

(U) Item 11: Administrative and financial matters.

(U) 11.1 - Consideration of a mechanism to regularize payment of dues. The co-facilitators can report substantial progress on this issue, and they appear to have a decent shot at achieving agreement by the July EC.

(U) 11.2 - Income and expenditure report. The EC is asked to note the DG's report covering the financial year ending March 31, 2006 (EC-45/DG.7, dated 25 April 2006).

(U) 11.3 - Audited financial statements. The EC is asked to note the statements and report of the External Auditor (EC-45/DG.7, dated 25 April 2006).

(U) 11.4 - Transfer of funds during 2005. The EC is asked to note the DG's note on transfers (EC-45/DG.2 C-11, DG.1, dated 11 April 2006).

(U) 11.5 - Financial rules. More progress was made in the financial rules consultations in the run up to EC-45 and the only significant unresolved issue is the proposed procurement language being pushed by Iran and India. The facilitator (Snelsire) will outline the progress made to date, but approval of the rules will not happen until EC-46 at the earliest.

(U) 11.6 - Transfer agreement between the OPCW Provident Fund and the UN Joint Staff Pension Fund. The EC is asked to consider the draft agreement on the transfer of the pension rights of participants in the UN Joint Staff Pension Fund and participants in the OPCW Provident Fund, contained in the DG's note on this agreement (EC-45/DG.6, dated 25 April 2006). There has been no discussion of this issue among delegations. However, del has not heard of any opposition to the agreement, so its approval is likely.

(U) 11.7 - Confidentiality. The EC is asked to consider the DG's report on handling of confidential implementation in 2005 (EC-45/DG.1 C-11, DG.2, dated 10 April 2006).

(U) 11.8 - Security Audit Team IV. The EC is requested to note the DG's note on the report of SAT IV (EC-45/DG.4, dated 25 April 2006).

(U) Item 12 - Anti-terrorism efforts. The outcome at EC-44 was further consideration of the DG's note on the OPCW's

contribution in this area. A consultation is set for May 11, but since the March EC, there has been little activity in this area. There is still no indication of a facilitator to succeed Sophie Moal-Makame (France) who is departing this summer. Krzysztof Paturej, head of the Office of Special Projects, has been given the TS lead on this issue, but has yet to fully engage on this matter. However, none of this will prevent another spirited discussion on this issue.

(U) Item 13 - DG's note on instruments signed by the TS. This is an issue that has generated substantial discussion among certain key delegations. The Chinese Ambassador has certainly made clear to Amb. Javits that she expects the DG to provide extensive information on what "agreements" the TS has signed with other international bodies. Moreover, she is concerned that the precedent not be set which would allow the TS to usurp the treaty-making authority of the EC to conclude

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such "agreements." The DG is fully aware of the concerns of various delegations, and del anticipates that he will be as forthcoming and reassuring as possible in his presentation.

(U) Item 14 - Any other business. Del currently knows of no issues that will be raised under this item.

¶16. (U) Javits sends.

ARNALL